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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,829	01/17/2002	Tomoyuki Miyake	70904/56891	1190
21874	7590	12/13/2004	EXAMINER	
EDWARDS & ANGELL, LLP P.O. BOX 55874 BOSTON, MA 02205			MAGEE, CHRISTOPHER R	
			ART UNIT	PAPER NUMBER
			2653	

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/051,829	MIYAKE, TOMOYUKI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Christopher R. Magee	2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 20-26 is/are allowed.
- 6) Claim(s) 1-29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 January 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

- Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform to current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless –*

*(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

- Claims 1-3, 5, 10, 15, 25 and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujisawa (JP 05-047155).

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➤ Regarding claim 1, Fujisawa teaches a disk cartridge, comprising:

a first cartridge [1] containing a first disk recording medium [3], the first cartridge [1] including:

at least one hole [7] for recognizing a relation in size between a disk diameter of a second disk cartridge which contains a second disk recording medium having a different disk diameter and a disk diameter of the first cartridge [English translation; sections 0011 & 0012].

➤ Regarding claim 2, Fujisawa discloses the hole [7] is provided so as to indicate the disk diameter of said each disk-recording medium or an outer most peripheral position during movement of a pickup [English translation; section 0011].

➤ Regarding claim 3, Fujisawa shows the hole [7] of said each cartridge is provided at a same coordinate position or at a same radial position with respect to a disk center in a disk recording and reproducing apparatus, regardless of the diameter of said each disk-recording medium [Fig. 1].

➤ Regarding claims 5 and 10, Fujisawa discloses a disk recording and reproducing apparatus comprising:

(a) pickup [11] for recording and reproducing disk cartridge; said disk cartridge including:

a first cartridge [1] containing first disk recording medium, first cartridge including:  
least one hole [7] for recognizing a relation in size between a disk diameter of a second disk cartridge which contains a second disk recording medium having different disk diameter and a disk diameter of the first cartridge, or an outer peripheral position during movement of a pickup, and

(b) a restricting member [16] for restricting a movement of the pickup in an outer peripheral direction, which is not less than a predetermined radius,

wherein the restricting member [16] detects the disk diameter through the hole [7] and restricts the movement of the pickup [11] in the outer peripheral direction, which is not less than the predetermined radius [Fig. 3].

➤ Regarding claim 15, Fujisawa teaches a disk recording and reproducing apparatus comprising:

(a) pickup [11] for recording and reproducing disk cartridge; said disk cartridge including:

a first cartridge [1] containing first disk recording medium, first cartridge including:  
at least one hole [7] for recognizing a relation in size between a disk diameter of a second disk cartridge which contains a second disk recording medium having different disk diameter and a disk diameter of the first cartridge, or an outer peripheral position during movement of a pickup,

the hole [7] of each said cartridge being provided at a same coordinate position or at a same radial position with respect to a disk center in a disk recording and reproducing apparatus, regardless of the diameter of said each disk-recording medium [Fig. 1], and

(b) a restricting member [16] for restricting a movement of the pickup in an outer peripheral direction, which is not less than a predetermined radius,

wherein the restricting member detects the disk diameter through the hole and restricts the movement of the pickup in the outer peripheral direction, which is not less than the predetermined radius [sections 0011 & 0012].

➤ Regarding claim 27, Fujisawa teaches a disk recording and reproducing apparatus, comprising:

(a) a pickup [11] for carrying out recording and reproducing with respect to disk cartridge, each of which contains a disk recording medium having respective different disk diameters, and

(b) a chassis [10], including:

a restricting member [16] which presses a side wall of the cartridge and contacts the pickup when the disk cartridge is loaded to restrict movement of the pickup in an outer peripheral direction, which is not less than a predetermined radius [Fig. 3].

➤ Regarding claim 28, Fujisawa teaches disk recording and reproducing apparatus, comprising:

(a) a pickup [11] carrying out recording and reproducing with respect disk cartridges, each of which contains a disk recording medium having respective different disk diameters, and

(b) restricting means for restricting movement amount of the pickup in accordance with a size of the loaded disk cartridge [Fig. 3].

➤ Regarding claim 29, Fujisawa teaches a determining means for determining the size of the loaded disk cartridge [sections 0011 & 0012].

*Allowable Subject Matter*

4. Claims 4, 6-9, 11-14 and 16-19 would be allowable if rewritten to overcome the rejection(s) under 35 USC § 112, second paragraph, set forth in this Office Action and to include all of the limitations of the base claim and any intervening claims.

5. Claims 20-26 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

- **Claims 20, 25 and 26** specify a disk recording and reproducing apparatus which requires:

*"the length of the hole being formed to indicate (a) a disk diameter from a disk recording medium for a minimum disk diameter to the first disk recording medium of the first cartridge or (b) the outer most peripheral position during the movement of the pickup"*

Fujisawa teaches at least one hole [7] for recognizing a relation in size between a disk diameter of a second disk cartridge which contains a second disk recording medium having a different disk diameter and a disk diameter of the first cartridge [English translation; sections 0011 & 0012] but does not show, teach, or suggest the applicant's invention as claimed above.

### *Conclusion*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Magee whose telephone number is (703) 605-4256. The examiner can normally be reached on M-F, 8: 00 am-5: 30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 10, 2004



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